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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE CHRYSLER-DODGE-JEEP
ECODIESEL MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

MDL 2777 EMC

**FCA DEFENDANTS' SECOND SET OF
INTERROGATORIES UNDER FED. R.
CIV. P. 33**

This Document Relates to:

The Honorable Edward M. Chen

*United States of America v. Fiat Chrysler
Automobiles N.V.*, No. 17-CV-11633
(E.D. Mich.)

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure ("Federal Rules") and the Local Rules of the United States District Court for the Northern District of California (the "Local Rules"), any order entered in or applicable to the above-captioned action, or any other applicable law or rule (together, the "Applicable Rules"), Defendants Fiat Chrysler Automobiles N.V. ("FCA NV"), FCA US LLC ("FCA US"), V.M. Motori S.p.A. ("VM Italy"), and V.M. North America, Inc. ("VM North America") (collectively, "Defendants") hereby direct their Second Set of Interrogatories to Plaintiff the United States of America, acting on behalf of the United States Environmental Protection Agency ("EPA").¹

¹ By directing these Interrogatories, the FCA Defendants do not waive, and expressly preserve, all defenses, including all defenses concerning jurisdiction.

Defendants request that Plaintiff respond to each of these Interrogatories within sixty (60) days from the date of service, in accordance with the schedule set forth in Pretrial Order No. 12: Discovery Schedule. (ECF No. 227). The Interrogatories are expressly made continuing pursuant to Fed. R. Civ. P. 26(e)(1) so as to require Plaintiff to supplement or correct any response in a timely manner if Plaintiff learns that any response is incomplete or incorrect.

DEFINITIONS

1. “Auxiliary Emission Control Device” or “AECD” has the meaning ascribed to it in 40 C.F.R. § 86.1803-01.
2. “Certificate of Conformity” or “COC” means a certificate of conformity referred to in 42 U.S.C. § 7522(a)(1).
3. “DEF” means diesel exhaust fluid.
4. “Defeat Device” has the meaning ascribed to it in 40 C.F.R. § 86.1803-01.
5. “EGR” means exhaust gas recirculation.
6. “EPA” refers to the United States Environmental Protection Agency and each of its current and former directors, officers, employees, agents, affiliates, representatives, and any other person acting on their behalf.
7. “EPA Monetary Awards” refers to monetary awards and bonuses in the form of lump-sum payments or increases in annual salary including, without limitation, Performance Management and Recognition System Awards, Excellence in Management Awards, Sustained Superior Performance Awards, Special Act or Service Awards, and Quality Step Increases.
8. “Light-Duty Truck” or “LDT” has the meaning ascribed to it in 40 C.F.R. § 86.1803-01.
9. “Light-Duty Diesel” or “LDD” means an LDT (as defined above) that has a diesel engine.
10. “Original Equipment Manufacturer” or “OEM” has the meaning ascribed to it in 40 C.F.R. § 86.1803-01.

1 11. "Person" means any natural person or any legal entity including, without
2 limitation, any business or governmental entity or association.

3 12. "SCR" means selective catalytic reduction.

4 13. "Subject Vehicles" refers to the vehicles identified by EPA Test Groups
5 ECRXT03.05PV, FCRXT03.05PV, and GCRXT03.05PV.

6 14. "You" and "Your" refers to the United States, its agents and affiliates, and
7 those on whose behalf it is acting, including the EPA.

8 INSTRUCTIONS

9 1. Answer each Interrogatory (to the extent not objected) separately, fully, in
10 writing, and under oath. Fed. R. Civ. P. 33(b)(3). Each answer must be signed by the person
11 making the answer. Fed. R. Civ. P. 33(b)(5).

12 2. If You object to any Interrogatory You should: (i) identify the portion of
13 the Interrogatory claimed to be objectionable and state with specificity the grounds for Your
14 objection; (ii) identify any information withheld pursuant to the objection with sufficient
15 particularity and in sufficient detail to permit the court to determine whether the information falls
16 within the scope of such objection; and (iii) respond to any portion of the Interrogatory that is not
17 claimed to be objectionable. Each objection must be signed by the attorney making the
18 objection. Fed. R. Civ. P. 33(b)(5).

19 3. You must provide the information required by Fed. R. Civ. P. 26(b)(5)(A)
20 if any information is withheld under any claim of privilege, immunity, or protection, including
21 the attorney-client privilege or the work product doctrine, and shall provide a written privilege
22 log that sets forth the information required under the terms of Pretrial Order No. 13: Stipulation
23 Relating to Non-Waiver of Privileges and Production of Privilege Logs. (ECF No. 246.)

24 4. If You contend that You cannot truthfully respond in whole or part to any
25 Interrogatory, You should: (i) state with particularity the matter(s) to which You cannot
26 respond; (ii) identify the nature of the information without which You cannot respond;
27 (iii) describe the reasonable inquiry that You undertook to obtain such information as necessary
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1 to respond; and (iv) identify the relevant information derived from that inquiry that You contend
2 is nonetheless insufficient to allow You to respond.

3 5. In construing these Interrogatories: (i) any singular term shall be deemed
4 to include the plural, and any plural term the singular; (ii) all pronouns and variations thereof
5 will be deemed to refer to the feminine, masculine or neuter, singular or plural, as the identity of
6 the person referred to may require; (iii) the words “and” and “or” shall be construed either
7 disjunctively or conjunctively so as to bring within the scope of the Interrogatories all
8 information that might otherwise be construed to be outside its scope; and (iv) the words “any”
9 and “all” shall be read to mean each and every.

10 6. Your opinion that a particular Interrogatory, Definition, or Instruction is
11 ambiguous or vague is not an excuse for failing to respond and it does not extinguish your
12 obligations under Fed. R. Civ. P. 33(b). Identify the allegedly ambiguous language, explain
13 clearly Your interpretation of that language, and then respond accordingly.

14 7. If a portion of any Document is responsive to any Interrogatory You
15 should identify or produce the entire Document, including all appendices, tables, and
16 attachments. If the Document is an e-mail, You should identify or produce the e-mail and all of
17 its attachments and if the Document is an attachment You should identify or produce the e-mail
18 to which it is attached.

19 8. If You contend that an Interrogatory seeks information that constitutes
20 confidential business information, You must (i) respond in full to the Interrogatory, anonymizing
21 the name of any entity whose confidential information would be disclosed in Your response; and
22 (ii) provide the number of entities whose names have been anonymized.

23 9. “Identification” of a Communication. Whenever an Interrogatory directs
24 You to identify a Communication, You should: (i) state the date of the Communication and the
25 place where it occurred; (ii) identify each Person who originated, participated in, or was present
26 during the Communication; (iii) describe the type of Communication (*e.g.*, letter, memorandum,
27 e-mail, face-to-face conversation, telephone conversation, etc.); (v) describe the substance of the
28 Communication; and (vi) identify and describe all Documents concerning the Communication.

10. "Identification" of a Document. Whenever an Interrogatory directs You to identify a Document, You should state or identify: (i) the date of the document; (ii) its author or signatory; (iii) its addressee(s) and any other of its recipient(s); (iv) the type of Document (*e.g.*, letter, memorandum, contract, report, record, e-mail, etc.); (v) its title; (vi) its subject matter and substance; (vii) its custodian; and (viii) its present or last known location.

11. “Identification” of a Natural Person. Whenever an Interrogatory directs You to identify a natural Person, You should state or identify the Person’s: (i) full name; (ii) present or last known business address and telephone number(s); and (iii) present or last known occupation and job title.

INTERROGATORIES

1. For the period 2013 through 2017, identify each EPA employee or contractor that conducted emissions testing of LDD vehicles, including but not limited to the Subject Vehicles, and describe in detail each employee or contractor's role, involvement, and responsibilities with regard to such emissions testing.

2. Identify the number of AECDs disclosed, and the number of pages that contain AECD disclosures, as part of Certificate of Conformity applications submitted to EPA for LDD vehicles for each model year 2010 through 2019.

3. Identify each EPA employee who received an EPA Monetary Award in connection with or in reference to EPA's investigation of or enforcement action against Volkswagen AG, Fiat Chrysler Automobiles N.V., FCA US LLC, V.M. Motori, S.p.A., or V.M. North America, Inc., and the amount of each such award.

4. Identify each and every OEM with which EPA employees communicated concerning AECDs or Defeat Devices in 2013, 2014, 2015, 2016, and 2017, and the respective EPA employee(s) with whom each OEM communicated.

5. For model years 2013 through 2017, identify each and every OEM that disclosed in Certificate of Conformity applications AECs that (i) used vehicle speed as an input to the EGR rate setpoint; (ii) shut off EGR for exhaust valve cleaning, or used another strategy to address soot or hydrocarbon deposits on the exhaust valve; (iii) used the SCR adaptation feature;

1 (iv) used modeled engine temperature as an input to the EGR rate setpoint; (v) used a post-
2 injection strategy to generate heat to more rapidly heat up the SCR; (vi) used a post-injection
3 strategy to maintain or stabilize the SCR temperature in the optimal temperature range for NOx
4 conversion efficiency; (vii) used more than one calibration map for SCR dosing; or (viii)
5 included a calibration feature to delay ammonia refill of SCR catalyst following conditions
6 where ammonia storage on the SCR was depleted, and the vehicles covered by each such
7 application.

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10 Dated: November 2, 2018

/s/ Robert J. Giuffra, Jr.

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North America, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document is being served by electronic mail to the designated counsel of record in the above-captioned action on this 2nd day of November, 2018.

/s/ Thomas C. White

Thomas C. White